

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

PEGGY B. BUMGARNER and	)	
ROGER D. BUMGARNER,	)	Case No.: 1:13-cv-12679 (RWZ)
	)	
Plaintiffs,	)	
	)	
v.	)	MDL No. 2419
	)	Dkt. No. 1:13-md-2419 (RWZ)
UNIFIRST CORPORATION, A/D/B/A	)	
UNICLEAN CLEANROOM SERVICES,	)	
SPECIALTY SURGERY CENTER, PLLC,	)	
KENNETH LISTER, MD, PC, and	)	
KENNETH R. LISTER, MD,	)	
	)	
Defendants.	)	
	)	

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**ANSWER OF SPECIALTY SURGERY CENTER, CROSSVILLE, PLLC,  
KENNETH R. LISTER, MD, AND KENNETH LISTER, MD, PC**

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For their Answer to the Plaintiffs' Short Form Complaint, the Defendants Specialty Surgery Center, Crossville, PLLC ("SSC"), Kenneth R. Lister, MD ("Dr. Lister"), and Kenneth Lister, MD, PC ("Dr. Lister's Practice") (collectively, the "Defendants"), state as follows:

**FIRST COUNT**

1. The Defendants hereby adopt and incorporate by reference the responses in the Defendants' Answer to the Master Complaint and any and all amendments thereto.

2. The Defendants admit, based upon information and belief, the allegations of paragraph 2.

3. Admitted.

4. The Defendants admit, based upon information and belief, the allegations of paragraph 4.

5. The Defendants admit that the Plaintiffs make these assertions.

6. Admitted.

7. No response is required to paragraph 7.

8. The Defendants adopt and incorporate by reference the responses and defenses set forth in their Answer to the Master Complaint to the following causes of action:

COUNT II: NEGLIGENCE AND GROSS NEGLIGENCE (Against UniFirst)

COUNT III: NEGLIGENCE AND GROSS NEGLIGENCE (Against Clinic Related Defendants)

COUNT VIII: FAILURE TO WARN (Against Clinic Related Defendants)

COUNT IX: TENNESSEE PRODUCT LIABILITY CLAIMS (Against Clinic Related Defendants)

COUNT X: AGENCY (Against Clinic Related Defendants)

COUNT XIII: LOSS OF CONSORTIUM (Against UniFirst and Clinic Related Defendants)

COUNT XIV: PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants).

9. The Defendants admit that the Plaintiffs complied with Tenn. Code Ann. § 29-26-122. The Defendants deny that the Plaintiffs complied with Tenn. Code Ann. § 29-26-121.

10. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10.

11. The Defendants admit, based upon information and belief, that methylprednisolone acetate ("MPA") from the New England Compounding Pharmacy, Inc. d/b/a the New England Compounding Center ("NECC") caused injury to Ms. Bumgarner. The Defendants admit, based upon information and belief, that Ms. Bumgarner was admitted to Cumberland Medical Center from October 6, 2012, to October 12, 2012. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 11. The Defendants deny any and all allegations of wrongdoing and specifically deny that any of their allegedly wrongful acts or omissions were a legal cause of the Plaintiffs' alleged injuries and damages.

12. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12. The Defendants deny any and all allegations of wrongdoing and specifically deny that any of their allegedly wrongful acts or omissions were a legal cause of the Plaintiffs' alleged injuries and damages.

13. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13. The Defendants deny any and all allegations of wrongdoing and specifically deny that any of their allegedly wrongful acts or omissions were a legal cause of the Plaintiffs' alleged injuries and damages. The Defendants deny that the Plaintiffs are entitled to any recovery from them.

**SECOND COUNT**

14. All responses above are incorporated herein by reference.

15. The Defendant incorporates by reference their Answer to the Plaintiffs' Original Complaint attached hereto as Exhibit A.

16. The Defendants admit, based upon information and belief, that MPA from NECC caused injury to Ms. Bumgarner. The Defendants admit, based upon information and belief, that Ms. Bumgarner was admitted to Cumberland Medical Center from October 6, 2012, to October 12, 2012. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 11. The Defendants deny any and all allegations of wrongdoing and specifically deny that any of their allegedly wrongful acts or omissions were a legal cause of the Plaintiffs' alleged injuries and damages.

17. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12. The Defendants deny any and all allegations of wrongdoing and specifically deny that any of their allegedly wrongful acts or omissions were a legal cause of the Plaintiffs' alleged injuries and damages.

18. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13. The Defendants deny any and

all allegations of wrongdoing and specifically deny that any of their allegedly wrongful acts or omissions were a legal cause of the Plaintiffs' alleged injuries and damages. The Defendants deny that the Plaintiffs are entitled to any recovery from them.

#### **ADDITIONAL PARAGRAPHS**

The Defendants hereby adopt and incorporate the section of their Answer to the Master Complaint titled "Additional Paragraphs" as if stated fully herein.

#### **AFFIRMATIVE DEFENSES**

The Defendants hereby adopt and incorporate the section of their Answer to the Master Complaint titled "Affirmative Defenses" as if stated fully herein.

Respectfully submitted,

**GIDEON, COOPER & ESSARY, PLC**

/s/ Chris J. Tardio

**C.J. Gideon, Jr.\***

**Chris J. Tardio\***

**Alan S. Bean\*\***

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***Attorneys for the Tennessee Clinic  
Defendants***

\* Admitted pursuant to MDL Order No. 1.

\*\* Admitted *pro hac vice*.

**CERTIFICATE OF SERVICE**

I certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 30<sup>th</sup> day of September, 2014.

/s/ Chris J. Tardio

**Chris J. Tardio**